

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **MARVIN L. GIBBS, M.D.**

4 Holder of License No. **13736**
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Board Case No. MD-03-1280A

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

(Letter of Reprimand)

7 The Arizona Medical Board ("Board") considered this matter at its public meeting
8 on October 6, 2005. Marvin L. Gibbs, M.D., ("Respondent") appeared before the Board
9 without legal counsel for a formal interview pursuant to the authority vested in the Board
10 by A.R.S. § 32-1451(H). The Board voted to issue the following findings of fact,
11 conclusions of law and order after due consideration of the facts and law applicable to
12 this matter.

13 **FINDINGS OF FACT**

14 1. The Board is the duly constituted authority for the regulation and control of
15 the practice of allopathic medicine in the State of Arizona.

16 2. Respondent is the holder of License No. 13736 for the practice of allopathic
17 medicine in the State of Arizona.

18 3. The Board initiated case number MD-03-1280A after receiving a report from
19 a hospital ("Hospital") that Respondent had been denied reappointment to staff for
20 providing false information on his application for privileges and for his continued failure to
21 timely complete medical records. When Respondent submitted his application for
22 privileges to the Hospital he was under investigation by the Board for internet prescribing
23 and had lost privileges at other hospitals. Respondent did not include this information on
24 his application even though the application asked for this information.
25

1 4. Respondent testified that after careful review and reassessment of all of the
2 information provided by the Board, his response to the Hospital Fair Hearing Panel and
3 information provided by the Hospital he believes he did not violate the statutes as
4 alleged. Respondent testified he also disagreed with the allegation that he failed to
5 complete medical records in a timely manner. Respondent testified no longer practices
6 obstetrics and gynecology and he currently has an office-based practice treating male
7 and female patients with sexual dysfunction. Respondent testified he also practices anti-
8 aging medicine. Respondent testified he currently has no hospital privileges.

9 5. Respondent testified he signed the Hospital application on February 18,
10 2002. Respondent was asked if he was under investigation by the Board at that time.
11 Respondent testified he had met with a Board investigator in January 2002. (The Board's
12 investigation was initiated in December 2001). Respondent was asked how he then
13 believed he correctly answered the application question about being under investigation
14 when he answered "no." Respondent asked the Board to look at the application,
15 particularly the question that asks "Within the past two years, have you been under
16 investigation, or have you been subject to disciplinary or corrective action . . . by any
17 medical staff, professional organization or licensing authority." Respondent testified he
18 checked "yes" to this question and wrote a letter fully detailing the Board had required
19 him to undergo the Physician Assessment and Clinical Education ("PACE") Program for
20 involvement in internet prescribing. Respondent testified that although the letter is date
21 stamped received "September 2002" he initially wrote another letter in February 2002, but
22 his staff did not include it with his application.

23 6. The Board indicated there was some question about the dating of the letters
24 and that the letters said different things. Respondent was asked about the question on
25 the application regarding privileges at other hospitals that asked whether "within the last

1 two years [had Respondent] ever voluntarily or involuntarily withdrawn or terminated [his]
2 medical staff application for membership or voluntarily or involuntarily experienced a
3 limitation or reduction or loss/denial of clinical privileges at a hospital." Respondent
4 answered "no" to this question. Respondent testified he submitted a copy of the Board's
5 Letter of Reprimand to make sure he was complete with what was going on as far as his
6 privileges. Respondent also referred the Board to the application under "Other Pertinent
7 Information." Respondent indicated that he answered this question "yes" that asked
8 about reduction of privileges by medical staff. Respondent testified this "yes" answer
9 acknowledged the termination of his privileges at Mesa Lutheran, Valley Lutheran and
10 Phoenix Memorial. Respondent testified he also sent numerous letters detailing this
11 information.

12 7. The Board indicated it was difficult to tell the dates on the letters. The
13 Board also noted Respondent, on Item Ten, said "yes" to the first question, but when he
14 answered the question of licensure he checked "no." Respondent testified the application
15 was sent in without his realizing he had not had the opportunity to send his explanations
16 in and he had no idea the letter had not gone with the original application.

17 8. Respondent was asked about the twenty-five medical records that were
18 found to be deficient. Respondent testified the Hospital acknowledged twenty-five
19 records were involved. Respondent testified the first month he had gone on suspension
20 for medical reasons was June 2002 based on fifteen out of the twenty-five records.
21 Respondent testified June 2002 was also the time the Board required he undergo the
22 PACE evaluation and he spent an average of eight to ten hours a day in addition to
23 patient care trying to prepare for PACE and that is why he did not get to his charts.
24 Respondent testified that of the twelve records that put him on suspension ten were just
25 signatures required for summaries or histories and physicals or operative reports he

1 already completed. Respondent testified the two that put him on suspension were one
2 discharge summary for a patient he had seen in the emergency room who had a
3 miscarriage and required a D&C and one was a patient that had a pelvic infection and
4 was discharged. Respondent testified the Hospital will normally suspend you if the
5 record is not done with thirty days of discharge, but this was more than six weeks.
6 Respondent testified he was in the Hospital at least twice a month to do his records and
7 he always did then by the end of the month. Respondent noted these were two out of
8 twenty-five records that actually required a discharge summary, all the others just
9 required a signature.

10 9. Respondent testified when he first responded to the Hospital he was
11 devastated and shocked that they alleged he falsely filled out his application and with all
12 the ramifications of the internet prescribing he began to doubt his own integrity and logic.
13 Respondent testified this is why he acknowledged in his report that he felt the questions
14 to be erroneous even though he did answer them and the information was complete.
15 Respondent testified that anything that required a "yes" answer was there and any
16 question he answered "no" to required this answer, no matter how confusing it may have
17 been with the type of questions, it was not his intent.

18 10. Respondent testified that after taking the medical ethics course he began to
19 understand he made a mistake, very unintentionally, and he has moved on. Respondent
20 testified that as far as his response to the Board he really believed he was not untruthful
21 and provided a complete application, that he did it correctly. Respondent acknowledged
22 there may have been a discrepancy with his report to the Hospital in how he really felt
23 about it when he reported to the Board.

1 **CONCLUSIONS OF LAW**

2 1. The Arizona Medical Board possesses jurisdiction over the subject matter
3 hereof and over Respondent.

4 2. The Board has received substantial evidence supporting the Findings of
5 Fact described above and said findings constitute unprofessional conduct or other
6 grounds for the Board to take disciplinary action.

7 3. The conduct and circumstances described above constitutes unprofessional
8 conduct pursuant to A.R.S. § 32-1401(27)(t) (“[k]nowingly making any false or fraudulent
9 statement, written or oral, in connection with the practice of medicine or if applying for
10 privileges or renewing an application for privileges at a health care institution;”) and 32-
11 1401(27)(e) (“[f]ailing or refusing to maintain adequate records on a patient.”)

12 **ORDER**

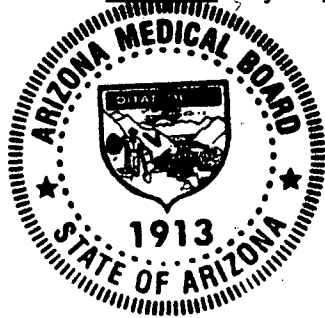
13 Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS
14 HEREBY ORDERED that Respondent is issued a Letter of Reprimand for providing false
15 information on an application for hospital privileges and for failure to maintain adequate
16 records on patients.

17 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

18 Respondent is hereby notified that he has the right to petition for a rehearing or
19 review. The petition for rehearing or review must be filed with the Board’s Executive
20 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
21 petition for rehearing or review must set forth legally sufficient reasons for granting a
22 rehearing or review. A.A.C. R4-16-102. Service of this order is effective five (5) days
23 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not
24 filed, the Board’s Order becomes effective thirty-five (35) days after it is mailed to
25 Respondent.

1 Respondent is further notified that the filing of a motion for rehearing or review is
2 required to preserve any rights of appeal to the Superior Court.

3 DATED this 12th day of December, 2005.



THE ARIZONA MEDICAL BOARD

8 By 
TIMOTHY C. MILLER, J.D.
Executive Director

9 ORIGINAL of the foregoing filed this
10 12th day of December, 2005 with:

11 Arizona Medical Board
12 9545 East Doubletree Ranch Road
13 Scottsdale, Arizona 85258

14 Executed copy of the foregoing
15 mailed by U.S. Certified Mail this
16 12th day of December, 2005, to:

17 Marvin L. Gibbs, M.D.
18 Address of Record

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